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TRUSTS—DISCUSSION

BALTHASER H. MEYER : In 1886, the writer of the paper under discussion contributed an article to the economic discussions published in *Science*, in which he, Professor Ely and others participated, which outlined the essential features of the philosophy underlying the present paper on Trusts. In that article Professor Adams treated of three co-ordinate fundamental factors; namely, the nature of men, physical forces, and the legal structure of society. It was there stated that the legal structure of society had not kept pace with economic development, and that in this lack of adjustment lay our economic problems. Later, as president of the Economic Association, Professor Adams repeated this thesis, in substance at least; and to-day we find it re-stated in this paper on Trusts. We may assume therefore that this thesis expresses one of Professor Adams' fundamental principles of economic philosophy. With this philosophy, as I understand it, I am in hearty accord. Trusts are spoken of not as a sacred product of natural evolution, but as a new form of industrial organization which should be met by a new expression of the law of competition and by a new statement of statutory rights and duties. I desire to direct my remarks almost exclusively to this sentence in Professor Adams' paper.

Twenty-five and fifty years ago it was customary to charter corporations for specific purposes. Statutes frequently prohibited corporations from entering upon other lines of activity than those for which they were specifically organized. Thus, laws prohibited banking companies from doing an insurance business,

railway companies from doing a banking business, etc. An analysis of the great trust charters of to-day shows that these corporations have received omnibus powers, varying in number from a half dozen to several dozen distinct enumerations, embracing a great series of operations and processes from the raw material to the finished product, and generally ending with the blanket provision that the enumeration of powers contained in the charter shall not restrict the corporation to the same. In a word, the charters of many of the great trusts might as well be condensed into the simple statement that the persons named therein are authorized to do any and all things which it is possible to do legally. Such charters may be necessary, and beneficial even, but there is nothing in our legal structure which is capable of meeting the emergencies which may arise under such charters. I hold in my hand one of the latest of this type of charters. One of the objects for which this corporation is organized is expressed in a long succession of legal phrases the sum and substance of which is that the company may engage in anything and everything under the sun, it may acquire, hold, sell all kinds of property and issue valuable paper in payment thereof. It is expressly provided that members of the board of directors may make contracts with the corporation, within certain nominal limitations, which in substance are exactly like the contracts entered into by certain men connected with the United States post office and for the investigation of which the grand jury is now in session. Another section provides that the board of directors shall determine whether and to what extent and at what times and places and under what conditions and regulations the accounts and books of the company shall be open to the inspection of stockholders. A pro-

vision of this kind appears to be prudent and necessary in order to prevent the abuse of the privilege of inspecting books. It is conceivable that a person may acquire a little stock in a great corporation with the view of gaining access to books from which he may, perhaps, garble certain facts which can be used to the injury of a sound business, and for purposes of blackmail. However, there exist no adequate provisions in this charter, nor in the general corporation laws of the state in which it was granted, which insure to stockholders their legitimate rights in gaining information concerning the business in which they have invested their money, if a recalcitrant and hostile board of directors chooses to be arbitrary or unjust. [Professor Meyer read extracts from the charter illustrating these various points.]

Another illustration of the manner in which our industrial organization has run ahead of the legal structure is found in what may be called transverse business of affiliation, or, in the railway world, community of interest. Community of interest more properly designates an affiliation on the part of a single series of business enterprises, like railways, the manufacture and sale of steel, oil, etc., each of which is naturally and logically connected in a consequential manner with every other member of the series. In ordinary manufacturing enterprises this form of association follows the lines of production from the raw material to the finished product and its consumption. The other or transverse type of association follows the points of contact among a number of enterprises in their business sequences.

The mining company for instance, has necessary and close relations with manufacturers of machinery, with railways, banks, etc. This type of association, although as old as the other is of relatively recent growth on a

large scale, and at present it appears to be the predominating principle in the industrial world, as the following table will demonstrate.

A table illustrating transverse business affiliations, based upon the "Directory of directors for New York," 1902. The classification of business enterprises adopted in the table makes a somewhat arbitrary assignment of certain companies unavoidable. The table does not take cognizance of stockholdings as such. It merely represents the number and kind of companies in which certain men act as directors or officials.

NAME.	Bank.	Trust.	Insurance.	Safe Deposit & Guarantee.	Railway.	Telegraph.	Telephone.	Cable.	Express.	Steamship.	Real Estate.	Manufactures.	Unclassified.	Total.
Alexander, J. W.	3	2	1	1	—	—	—	—	—	—	—	—	1	8
Babcock, S. D.	2	4	3	—	3	—	1	—	—	1	6	—	1	21
Baker, Geo. F.	6	7	3	2	8	—	—	—	—	—	1	9	—	36
Belmont, August	6	5	3	1	10	—	—	—	—	—	1	7	2	35
Cannan, H. W.	1	2	1	2	7	—	—	—	—	1	—	1	2	17
Cox, C. F.	1	—	—	1	26	—	—	—	—	—	—	—	1	29
Depew, C. M.	1	4	1	3	53	1	—	—	—	—	—	2	2	67
Fish, Stuyvesant	3	1	2	1	3	1	—	—	—	—	—	—	—	13
Gary, E. H.	2	—	—	—	6	—	—	—	—	1	1	23	1	34
Gould, Geo. J.	1	1	1	2	23	8	2	1	—	1	—	—	2	42
Harriman, E. H.	3	2	1	1	25	1	—	—	1	3	—	—	—	37
Hyde, J. H.	5	4	5	4	6	1	—	—	—	—	—	2	—	27
Lamont, D. S.	1	2	1	—	21	—	—	—	1	2	1	1	—	30
Morgan, J. P.	1	—	2	—	22	2	—	1	—	—	1	2	2	33
Rockefeller, William	6	1	1	—	9	—	—	—	—	—	—	11	—	28
Rossiter, E. V.	2	—	1	2	31	—	—	—	—	—	—	3	—	39
Sage, Russell	2	—	—	1	11	6	1	1	—	1	1	—	2	26
Schwab, C. M.	—	1	—	—	5	—	—	—	—	—	—	22	—	28
Stillman, J.	10	6	6	2	12	1	—	—	—	—	1	6	4	48
Twombly H. McK.	1	2	1	—	28	—	—	—	—	—	2	1	—	35
Vanderbilt, W. K.	1	—	—	—	50	—	—	—	—	—	—	—	3	54

The names in this list have been selected quite at random and the table could be extended through hundreds of names. A legal structure of society which was framed for a business world, simple in its organization, can obviously not suffice for an extremely complex system like that revealed in this table.

Professor Adams' reference to railways is so broad that the whole subject of transportation could be discussed under it. I shall confine myself to the statement of a few facts the contemplation of which urges upon

us the necessity of a new statement of the law of competition in its application to the railway business.

Every member of this association knows how fifty years ago the railway net of the United States was composed of small independent lines, frequently in competition with one another. As the systems grew agreements of various kinds were resorted to, beginning with rate agreements, continuing through pools, 1870 to 1887, transformed into traffic associations, 1887 to 1897 and 1898, and culminating in the community of interest principle, of which the Northern Securities Company is the most conspicuous example. The Northern Securities Company is the logical culmination of fifty years of railway development in the United States. Running chronologically parallel with this development we have fifty years of railway legislation based upon the fundamental but erroneous assumption that the railway business is like ordinary business and that competition among railways is like competition in private business. Laws which assume free and unrestricted competition among railways must fail because such competition does not, generally speaking, exist. Competition for traffic, in which the public has little or no interest, may prevail, but competition for the rate as a regulative principle has failed the world over. Anti-pooling laws and anti-trust laws have promoted that very type of railway organization which it was intended they should prevent. A body of railway administrative inventors has been in constant rivalry with a set of legislative inventors, and in this rivalry the railway set has always kept a little in advance of the legislative set. Legislation cannot overcome the inherent tendencies of the railway business. We may compel men, by law, to hang tomahawks on the walls of their houses, but no law can compel men to

use these weapons upon each others' skulls, especially when they are neighbors who must transact business with one another. Railway legislation has too often assumed that the cracking of skulls brings advantages to the public. I believe in granting to railways such powers as the nature of the business demands and remodeling our laws accordingly. I am unwilling to believe that the possession of large power will in itself lead to abusive use of such power, provided the state entrusts adequate discretionary powers to administrative authorities that can wield a strong hand over the law-breaker.

JAMES EDWARD LE ROSSIGNOL: The discussion of this paper, as Dr. Adams intimates, has suffered from much exaggeration, especially in regard to the economies incident to large industries, monopolistic or otherwise.

The condition of the independent producer is seldom altogether hopeless. His persistence in the face of extreme competition, is little short of remarkable. Even discrimination in railway rates does not always cause him to perish, and one is forced to the conclusion that the power of free competition is not so destructive as one has been led to believe.

The catchword "survival of the fittest" has been used as an argument to show that in every field the successive elimination of marginal producers must go on until one fit survivor alone is left. But if the development of industry is at all similar to the evolution of animals and plants, no such conclusion can be drawn. At times it seems as though the seed of a single plant would fill the earth, as though carnivorous beasts, birds and fishes would speedily exterminate all the rest, but, for one reason and another, land, air and sea are peopled

with innumerable forms of life, which continue to exist and to flourish in spite of, or with the help of the most adverse circumstances.

It may be that there is a similar law of balance in the industrial world. It may be that a perpetual struggle can go on without the elimination of other than the weaker competitors. If so, the trust is, as Professor Adams says, an ephemeral symptom of disorganized industry, created, it would seem, rather for the sake of the marginal producer than for the good of the strong competitor or the welfare of society at large. Indeed, the marginal producers, great and small, have received too much consideration, both in the sphere of economic thought and in that of political and industrial activity.

But what consolation is there in the thought that the trust, or monopolistic consolidation, is to pass away, if we are to have with us still the combination, pool, syndicate, community of interests or gentlemen's agreement with its familiar methods of dividing and limiting output, fighting outsiders and controlling prices? The consolation, though slight, is not to be altogether despised. In form, the combination is a mean between the extreme of monopoly and the extreme of destructive competition, and since, in the language of Aristotle, all virtue is in the mean between excess and defect, the combination, in form, at least must be a good thing.

Unfortunately, as a matter of fact, it inclines toward the vicious extreme of monopoly, and the stability which it gives to business is not sufficient to justify an undue departure from the golden mean. But if the tendency toward the extreme of monopoly could be sufficiently corrected, there could be little objection to

combination as such, on the part of the capitalist, the laborer, or the consuming public.

That such correctives exist, and that they operate to prevent the worst evils of monopolistic control, no one can reasonably deny. There is pressure from outsiders, competition actual, potential and imminent. There is pressure from insiders, whose expanding business demands reapportionment of output and readjustment of prices. There are the demands of organized labor, ever ready to claim a share of increasing profits. There is pressure from buyers, many of whom are members of strong combinations, while the final consumers, though not yet organized for their own protection, exert a considerable influence in the creation of public opinion, which the wise producer can by no means afford to ignore.

When we consider these and other natural remedies, and assume the enlightened producer to act with due consideration for them all, we are inclined to wonder whether the activity of combinations involves anything more than a reasonable antidote to unreasonable competition.

But the fact that combinations do at times exact monopoly prices and secure monopoly profits cannot thus be explained away. The influence of the ordinary correctives is not sufficient to prevent a considerable amount of extortion, and if relief is to come to the consumer from any quarter it must be from the state, which can, in a perfectly natural way, increase its activity as a factor in industrial evolution.

That the state will do this must be evident to anyone who considers the influence of economic conditions upon the development of law. In the arid west the requirements of irrigation have in a few years pro-

foundly modified the common law doctrines respecting the control of streams and the use of water. The doctrine of riparian rights, reasonable enough in England and the humid parts of the United States, has been found unreasonable in Colorado and other arid states, where the maximum of social utility is obtained by diverting water from streams in order to put it upon the land.

Many similar illustrations might be given to show that, although economic development may be so rapid as to go in advance of law, so that many unreasonable things are done and many offences committed for which there is no remedy, in a comparatively short time the law overtakes the line of progress and harmony between law and equity is again restored.

The problem, then, is not the trust problem alone, nor the railway problem, nor even the labor problem in the narrower sense of that word. It is rather the single yet multiform problem concerning the distribution of wealth. In its present form the problem is presented for solution, not by economists and philosophers, but by the representatives of various economic interests—combinations of manufacturers, wholesalers, retailers, laborers, railroads, insurance companies, bankers—all conscious of the evils connected with unregulated competition and all presenting remedies which they think adapted to their own special troubles.

The controversy appears to centre around the words *fair* and *reasonable* as applied to prices, profits, wages, rates, methods of business, and the interpretations given to these words are as various as the interests concerned. It is not an economic problem that is involved, except in so far as it originates in the economic facts of human life. Nor is it a problem that can be solved out of

hand at a single session of a meeting like this, nor by any economist in the seclusion of his study, though he should rack his brain for a thousand years. It is primarily an ethical and political problem to be gradually worked out by struggle and compromise between the various interests involved.

EDWARD W. BEMIS: I have such an admiration personally for my old instructor, the author of this excellent paper, that any criticisms that may be advanced will be offered in the most friendly spirit. It is, however, as I understand it, the object of such a discussion as this, to supplement, or point out in a paper, any weaknesses, if such may be found, rather than to point out its strong points.

The opening portion of the paper, showing that even if trusts are a natural evolution they need legislation adapted to them, as much as did the factory system and the corporation, and showing further that trust competition or potential competition is not all that is needed, and that trusts should not be considered as necessarily productive because successful, and that we do not have adequate remedies now, in common law, for the trust problem—all this, which constitutes the bulk in space of the paper, is admirable. My criticism will be confined to the definition of the trust, and to the three reforms or advance steps suggested in the paper.

Professor Adams defines a trust as "an industry which on account of its size or its form of organization, exercises a dominating influence on the production or sale of the goods in which it deals." My criticism relates to whether it is necessary to include the clause "on account of its size or its form of organization." It is doubtless true that the trust must have large size

relatively to other business organizations in the same line of industry in order to dominate them, but the question is whether it is the size which gives the domination, or whether we are to look for the causes of the size. There may be disagreement with regard to those causes in the present state of discussion. It may be well, therefore, to omit from the definition any statement implying a theory of the causes of the power of the trusts, but if any causes are given, it seems as if they should be more fundamental than the question of size or organization.

How would it then do to define the trust merely as "an industry which exercises a dominating influence on the production or the sale of the goods in which it deals?" I do not think that Professor Adams believes, as some do, that mere size or form of organization necessarily gives a dominating influence, unless there is associated with these factors other elements such as special privileges to be referred to later on. Unless then, the definition can include a reference to all the important factors of a problem, it is better to omit any reference to causes and secure the merit of brevity.

Professor Adams is of course right in saying that any satisfactory programme of reform must touch the underlying causes of industrial consolidation. He mentions three such. It is interesting to note that he altogether omits, and rightly so, any endorsement or other reference to the prevailing fad of publicity. Of course this cannot be because he is opposed to publicity. No one can object to all the light on any phase of the trust problem which the advocates of publicity are likely to secure,—but it is refreshing that this is not put forward as a fundamental remedy or line of advance. Publicity, so far as it can be made effective, will be chiefly instru-

mental in showing which of the so-called trusts are real trusts, and to what extent they are sound investments. If the trust problem consists in the protection of investors from putting their money into enterprises which could not fill their expectations in the line of profit, then publicity would be more important than it is. It would of course show that the Standard Oil stock is a safer investment than some others. It would be as ridiculous to suppose that we were solving the trust problem by helping investors to find out which trusts are the strongest, as it would be to attempt to solve the problem of municipal monopolies by putting forward as our chief thought the determination of what gas or street railway stocks it is safer for one to purchase, or whose prospectus is worthy of the most confidence. Yet this is about all that most of the present national administration and many others, even some economists, seem to have in mind when they talk about separating the good trusts from the bad ones. Publicity for investors is well enough, but what we are chiefly seeking is protection for the consuming public and for competitors and employees. The kind of publicity that will bring that about is not the kind that is primarily in the minds of most advocates of the term. We will now take up the three suggestions of Professor Adams.

His first suggestion, with respect to the need of increasing the amount of business talent in the community, he himself concedes is not a fundamental matter, and to my own mind it does not seem even as important as to him, so far as it relates directly to the problem of the trusts, although its general importance and the value of commercial education as a branch of university instruction, and as one means of increasing

business talent, none of us who have ever been teachers would be inclined to deny.

Passing for a moment his second suggestion, we may note that his third and last is the need of "a final determination of the relative rights and duties of employers and employees." He appears to hold that there is something in the modern trade union movement which is a fundamental cause of the trust and must be changed. I do not understand what was in the author's mind, from his very brief references, sufficiently to reply to it. There is certainly much in the modern labor movement which can be criticised, although on the whole it appears a necessary weapon of labor and a benefit to society. It may be also true that organization of labor tends to promote combination of capital, just as the reverse is also true, but how the trust, in the sense of a giant corporation, independent to an alarming extent of either actual or potential competition, can be considered as a general thing to be an outgrowth of labor organization or of the modern labor movement, it is hard for me to understand.

The second suggestion, that of railroad reform, goes to the root of a great portion of the trust question. Until we can abolish all favoritism to large shippers, we cannot hope to make much progress with the trust question. If the advocates of publicity would say about half as much on that subject as they do, and one hundred times as much on the abolition of all railroad discriminations, we might hope in time to get somewhere with the problem before us. Despite some improvements, which the Elkins law has effected, the Interstate Commerce Commission in the synopsis of its seventh annual report transmitted to Congress December 18th, is obliged to state that even where tariff rates

are observed, it is possible to so adjust these published rates as to be equivalent to the payment of a rebate.

The new law "greatly aids the observance of tariff charges, but affords no remedy for those who are injured by such charges, either when they are excessive or when they are inequitably adjusted." It is a well known fact that one reason for the payment of the enormous amount of money in bonds to a certain "philanthropist" for his interest in enormous iron and steel plants, was because of his threat to parallel the main line of the Pennsylvania Railroad if he could not secure a continuance of the rebates which were responsible for many millions of his fortune.

Professor Adams omits one line of attack upon the dangerous powers of the trusts almost as important as their control of railroad rates, viz: their control of limited sources of supply of coal and ore, their control of patents, their protection from world competition by the tariff, and their escape from such a ratio of taxation to the market value of their property as is borne by the farmer and the small business man.

There is a tendency in much trust discussion to put the "cart before the horse" and to speak of the trust as producing a monopoly, whereas, in most cases it is the monopoly which produces the trust. There may be, and I am inclined to think there is something of a monopoly feature in mere aggregation of capital where an enormous amount of wealth is needed to secure the requisite machinery to open up markets in competition with an established corporation, but the importance of this monopoly is of minor consideration at present compared with the special privileges just referred to. Only those trusts have an assured future that have their "feet upon the ground" as Louis S. Post has lately put it in

the "Ethics of democracy," or those which are especially favored by tariffs, patents and unfair escape from taxation.

In the answer to the suit brought by Hodge, Curtiss & Smith, to prevent the United States Steel Corporation from carrying out its bond conversion plan, certain very significant statements were made. The answer was filed July 15, at Newark, N. J., before Vice-chancellor Emory. It placed the value of its iron ore properties at \$700,000,000, and its coal and coke field and natural gas fields at \$120,000,000, or over one-half of the entire \$1,400,000,000 value placed upon the entire property. Its cash and cash assets, its plants, mills, fixtures, machinery, equipment, tools and real estate, its blast furnaces, and even its 1467 miles of railroads, amounted only to \$576,000,000. Probably less than \$500,000,000 represented actual material and equipment.

In his testimony before the Industrial Commission, Mr. Schwab declared that his corporation owned 500,000,000 tons of iron ore in the North-west, which ought to yield a profit of \$2.00 to \$2.50 a ton, and about 60,000 acres of Connellsville coal, which he said was practically all there was, and which he said doubtless with considerable exaggeration, could not be bought for \$60,000 per acre.

It would be very interesting if some university, or the Carnegie Institution at Washington, would provide for a thorough investigation of the assessments and taxes of the whole or any large part of the anthracite coal fields and the iron ore districts of Lake Superior, or the coke fields of western Pennsylvania, and compare these assessments with the valuations put upon those properties by the owners and with the assessments and taxation of farm properties in the same counties.

To sum up this necessarily brief discussion, we need not much concern ourselves, for some years at least, with mere large aggregations of capital independent of monopolistic advantages. So far as they will survive if stripped of all special privileges not enjoyed by you and me, it will largely be because they have won the right to survive through superior industrial service. But that feature of our strongest trusts which gives them their enormous and unfair advantage in the race, is their possession of immensely valuable special privileges in a dozen forms. Unless these, with the exception of patents, can be destroyed, all ideas of fair play in business, and all reason to believe that the survival of the strongest is at the same time the survival of the fittest, will be gone. The result would be calamitous indeed.

MAURICE H. ROBINSON: A partial analysis even of the so-called trust problem must necessarily recognize its complex nature. It naturally comprises, first, a study of the evolution of the industrial organization from a simpler to a more complex form; second, an investigation of the power of such organizations over the industries of the country, the means used to achieve a partial or complete control in its particular field, and the effects of this dominating influence upon the production and distribution of wealth and; third, the sphere of the State in protecting the public welfare and the means by which such protection may be most wisely and permanently attained.

The definition adopted by Professor Adams performs a double service: it limits the discussion to a consideration of those organizations that possess a dominating influence in a particular industry and consequently excludes a large number of consolidations commonly

called trusts from the inquiry ; and it recognizes that a "dominating influence" may be secured in either one of two very different ways : (a) by the growth of one business organization until it crowds its rivals to the wall or forces them to submit to its leadership as a price of its continued existence ; or (b) by the amalgamation of practically all the competing units into one organic whole, more or less permanent and effective.

With these preliminary considerations in mind I wish to limit my remarks to a necessarily brief discussion of two lines of inquiry raised by the paper, since upon our answer to these fundamental questions must depend our attitude to the trust problem and its legal regulation.

I. Are trusts a natural growth ? (a) If trusts are a natural growth as an incident of the "crowding out" process, the results ought to be evident in the increasing size of the producing units and their decreasing number from decade to decade. Unfortunately our census statistics relating to manufacturing are not arranged with this purpose in view and therefore methods must be crude and results less exact. The tendency may nevertheless be discovered in a general way and with more exactness in certain industrial groups. Taking the manufacturing industries as a whole the maximum size seems to have been reached in 1890. In 1900 on the average, each establishment employed a less number of men, paid less in wages, used less materials, turned out less value in product, and employed only slightly more capital. The same is true of a large majority of the specific industries. This tendency does not run through all the industries of the country, however. There are several groups in which the units steadily grow less in number and larger in size decade by decade. Some of

the more marked cases, comparing the number and capital investment in 1880 and 1900, are :

Agr'l implements,	40%	less in number,	175%	increase in av. capital
Cordage and twine,	40	"	200	"
Malt,	33	"	190	"
Matches,	40	"	175	"
Linseed oil,	40	"	200	"
Floor oil cloth,	28	"	100	"
Safes and Vaults,	12	"	150	"
Salt,	40	"	233	"
Iron and Steel,	25	"	150	"
Blast Furnaces,	33	"	50	"

In the above named industrial groups, together with some others including the manufacture of oils, gas, textiles, liquors, starch, paper, chemicals, tobacco and others, the number of independent plants has constantly been decreasing while the investment of capital has been increasing at a rapid rate. Consequently the average investment is much larger per plant and the output is proportionally increased. Such industries may be appropriately called the "consolidating industries." In a general way they have the following characteristics :

(1.) The goods are of uniform quality and in staple use.

(2.) They require an exceptionally large investment in plant and machinery for profitable production.

(3.) They depend for success more largely upon the perfection of their organization than upon the "industrial taste" of their managers.

While the tendency to consolidate as a result of the greater economy of the larger establishment exists, there is as yet no indication that it will ever result in the domination of one establishment in any industry. The larger plants are apparently reaching the size that gives the maximum economy and when that is reached this process will come to an end. In other words, a mo-

nopoly in any one group must come, if it comes at all, as a result of the union of competing units and not through the destruction of the weaker by the stronger.

(b) Whether the tendency to unite for common ends is an inborn characteristic of the race or an acquired trait may well be left to the students of the science of society. At the present time it is quite universal: in politics, the union of parties and states; in economics, the amalgamation of employers and of laborers; in society, the formation of clubs and their federation into national organizations. The formation of trusts is then not an isolated phenomenon, it is a part of a universal tendency. It is not only everywhere present but it takes on every possible variety of form from the simple association to the holding corporation. The association—such as the Merchants' Association of New York—has indeed no monopoly power but is nevertheless of very great importance owing to its socializing effects and its tendency to prepare the way for a stronger organization, the combination or pool. The combination is the characteristic form in practically every country where trusts exist except England and the United States. At the same time it has a much more powerful influence in this country than is generally admitted. It is effective only while it includes a large percentage of the producers in any industry. Its chief end is to control directly or indirectly the price of its product and the amount of the output. The combination grows into the company, wherever the legal system permits. The company form not only allows monopoly but in addition ensures permanence and whatever economies a strong and efficient organization make possible. Is there a tendency for the combination and the giant corporation, one or both, to dominate the in-

dustries of the country and of the world? The census of 1900 shows that in the United States out of over 500,000 separate manufacturing establishments, about 12 per cent in number were in the corporate form producing approximately 60 per cent in value of the manufactured goods. The corporate consolidations, however, did not control much over one-fourth of the total invested capital, while those which exercised a dominating influence certainly represented a much smaller fraction still. The extent and influence of the combination in this country cannot be determined with accuracy owing to the fact that such organizations are illegal and therefore largely secret. Their power is, I believe underrated, and I question whether the "dominating influence" of some of the so-called trusts is not due as much to a combination with the outsiders as it is to their own independent power.

Is there a casual relation between the two tendencies just described? It will be noticed (1) that every one of the great trusts have been formed within an industry where there already existed a strong tendency to form fewer and larger producing units. (2) Few, if any trusts have been formed in those industries where such tendency is absent and further such organizations have kept re-organization committees and receivers busy. In certain cases trusts have been abandoned because, as stated by the president of one such, the business could be more advantageously conducted by the constituent plants independently.

In the light of these and other facts which might be cited if time permitted, I am forced to the conclusion that very large organizations possessing in some cases at least a certain degree of monopolistic power are a natural growth under our *laissez faire* economic sys-

tem. With our legal system adjusted to the new economic conditions as suggested by Professor Adams in his paper and by Professor Meyer in his remarks, it seems probable that while the giant organizations would still persist they would be stripped of most of those dominating traits which are proving dangerous to society and are likely in the end to cause their own downfall.

II. Are trusts productive? A trust as defined is a partial monopoly—the monopoly power being due to the control of the major portion of the output of a particular industry. It is a monopoly *in posse*, not *in esse*. It must maintain this dominating position or lose its distinctive characteristic as a trust. To maintain this position it must either :

- (1) Produce at a lower cost than its competitors, or,
- (2) Control the industry by the use of piratical methods, or,
- (3) Rely on the protection of the government or special privileges from related industries, such as the railways.

In the past, the trusts have apparently depended upon all three of these methods. Whether beyond a certain point capital in itself is an aid in reducing the cost of production may be doubted. Such a conclusion is not equivalent to asserting that in a trade war an abundant treasury is to be despised. We have been passing through a stupendous competitive warfare and in such a warfare capital counts. Under such circumstances success does not necessarily come to the company that produces at the least cost, it comes rather to the one that can endure the longest or fight the hardest. We have been allowing the "big fellow" armed to the teeth to meet his unprotected antagonist in the ring, saying

“hands off” and afterward present the ridiculous spectacle of investigating why the little fellow is knocked out in the first round. For such a situation the nature of the remedy is clear, although the exact form it must take can only be solved by experience.

When all this has been granted and it has been further admitted that many of the trusts have been living upon favors from the government or the railways, it may still be asked, are not the trusts efficient producers? Two lines of argument may be used:

(1) Statistics of failures show that an exceptionally large proportion of the whole occur among the smaller plants, and in this connection it may be noticed that Professor Adams has admitted that organized labor by raising the price of its wages forces the smaller producers to the wall. This means that the larger producers are operating at less cost.

(2) It is generally admitted by both business men and economists that efficient production depends upon labor, capital, methods of production, and organization. An increase in the efficiency of labor cheapens the cost of production, so does better technical methods, so does a more efficient organization. The trust is a form of organization and it is at least possible that such a form may prove more economical than that which it has superseded in certain lines. If the preceding analysis is at all correct however, such economies as may be effected through a more efficient organization are in their nature differential gains not monopoly profits. Such gains are due to a better organization and can be retained only so long as such efficiency is maintained. They are thus a perpetual incentive to the continued economical organization of the productive forces.

W. G. LANGWORTHY TAYLOR: I believe that the important fact connected with the trusts and their evils is not so much the combining of large firms and corporations into larger ones, as the direct and plain fact of over-capitalization. This is the cause of commercial crisis because it is the cause of the inflation and rise of prices about which we hear so much before crises. If I had time, I believe I could demonstrate that the rise of prices is due to the over-capitalization. I do not say that any peculiar blame lies upon the promoters—not, at least, in excess of that which lies upon other classes. The over-capitalization seems necessary in order to bring out the individual surpluses and sell the stocks. Hence the investing public is made *particeps criminis*; nor do the laborers escape guilt, with their extortionate demands at the very moment when the financial waters are roughest. But, confining ourselves to finance, the connection between over-capitalization and prices, and hence with crises, lies evidently in the implied high returns. It is supposed that very large, impossible, returns will occur and will continue; large subjective value of products is promised and believed in. Now over-capitalization is simply the financial form taken by these promises. High returns mean high prices for stocks and bonds, if the rate of interest is to be kept down to the “effective desire of accumulation.” But these large nominal capitals mean a big demand for present goods; they are the means of circulating present goods, and hence the inordinate rise of prices of commodities—the “present goods” of Boehm-Bawerk.

My object in speaking to the question, however, was to call attention to the resemblance of present phenomena to those of the crisis of 1873. I have recently

been looking at a publication that appeared shortly after the crisis of 1873 in Germany, by one Glagaŭ, a very racy writer, who collected in his notes an account of a very large number of separate *Gründungen* or promotions during the *Schwindelära*. I have looked rather carefully through these accounts and I have failed to find in them any case of considerable combination. They were all cases of over-capitalization *simpliciter*. No one can claim that 1873 was not a typical crisis, with the full-fledged phenomena of inflation, high prices and their subsequent fall. I merely draw this parallel in confirmation of what has been stated here by Professor H. C. Emery, and, I think, by others, that combination is not the essence of the promotion evil.

JACOB H. HOLLANDER: I have been disappointed in the extent to which the discussion has concerned itself with the technique of trust organization and administration, to the neglect of what seems the more vital, and certainly the more fundamental problem suggested by Professor Adams' paper, namely, the theoretical basis of the existence and growth of industrial concentration. Before we can advise wisely as to the necessity and nature of legislative control of the trust, we must first reach some definite conclusions as to whether there be any assignable limit to the size of the modern industrial unit, and as where such limit lies, and what forces determine it. This seems to me the primary concern of economic analysis, and until we have reached more definite and convincing results than those thus far attained, we can give neither intelligent counsel nor helpful service to the legislator or administrator grappling with the so-called "trust problem."

THOMAS N. CARVER: In discussing the supposed superior productivity of trusts it is sometimes forgotten that trusts are not made to produce, but to sell. The trust promoter's sole concern is to sell his securities. This he would not be able to do unless the public believed that the trust would be productive, or was at least intended to produce. But the buying public seems to be about as unsophisticated in such matters as was the rustic who bought the razor supposing that it was made to shave but found that it was only made to sell. Until the buying public becomes somewhat more sophisticated, and loses some of its faith in the inherent superiority of a "big thing," the productivity of a trust will remain a minor consideration in the minds of its organizers.

HENRY W. FARNAM: I do not know exactly what is expected of the person who is to summarize the discussion, but I have tried to meet the requirements of the situation by separating my mind into two compartments. One of them might be likened to one side of a revolving blackboard, which has been carefully sponged in order to receive in an unprejudiced manner the impressions made by the other speakers; on the other side I have endeavored to record and retain a few points which seemed to me might be made in comment upon or supplementary to the paper of Professor Adams. As the discussion has proceeded, the blank side of the blackboard has been gradually filled up with the ideas contributed by the other speakers, while the other side has been gradually becoming cleaner, as one idea after another which I had thought of has been advanced by some one else, and been expunged from my talk. Acting on this conception of my task I shall first endeavor as

fairly as possible to sum up in a few words the leading points made by the preceding speakers, especially as far as any general agreement can be traced. I shall then add a few suggestions of my own on points which have not thus far been touched upon.

When the Chicago conference on trusts was held in 1899, a committee on resolutions was appointed which stated in its report that its members had different views on the problems to be discussed, and recommended a resolution to the effect that "it would be inexpedient for it (the conference) to adopt resolutions purporting to declare the sense of the conference upon any aspect of the subject discussed." When the subject of trusts was announced for discussion by this association, I very much feared that the end might be a similar agreement to disagree. In this I have been agreeably disappointed. If I have rightly understood the speakers, almost all, if not all, would agree regarding certain leading points, although their agreement on many of these would seem to involve a certain disagreement with the views expressed by Professor Adams in his very able opening address. The points of apparent agreement which have most impressed me are the following:

(1) The speakers have generally based their arguments upon a study of the facts, rather than upon a consideration of the psychology of economics. Certainly they have not shown as great a fear as that expressed by Professor Adams of the dangers of monopoly involved in the trusts.

(2) They are more inclined to think that these evils will be held in check either by potential competition or by a farsighted regard to their own interests on the part of the trusts.

(3) As regards legislative measures, none of those who have spoken would seem to be in favor of abolishing the trusts altogether, but would rather favor some legislation which would limit their power for evil. On the other hand, no one, with possibly a single exception, would favor a *laissez faire* policy.

(4) There also seems to be a general agreement that the exhibition of promoters' profits, inflated capitalization, and stock-jobbing devices, which we have recently witnessed, while deplorable in the extreme, is not necessarily connected with the trust systems, but has shown itself under various forms in other periods of speculation. One must indeed be bereft of historical sense if, standing in the city of New Orleans and in the old Province of Louisiana, he did not recall Law and the Mississippi scheme and the undigested securities of one hundred and eighty-four years ago.

Professor Adams has laid a good deal of stress in his paper upon the danger of monopoly in trusts, and there is no doubt of the tendency on the part of trust managers to create for themselves an exclusive or nearly exclusive field. But is this really the essential feature which has aroused so much popular feeling? I think not. The mere fact that we should use to designate these combinations a term which no longer describes the form under which any one of them is now organized, and under which very few have ever been organized, confirms my view. In addition to the fear of monopoly, what especially arouses indignation at the trusts is, in my view, the fact that by a lawyer's trick a time-honored English legal term, which implied above all things responsibility, has been used to mask a form of combination, the essence of which is irresponsibility, that is irresponsibility to the government and to the public.

I believe that the monopoly feature of trusts is very generally subject to limitation arising from the nature of modern industrial organization, so that while there may be exceptions the consumer is not the one who has most to suffer by them. Many examples could be given to show the practical operation, either of potential competition or, where this does not exist, of self-restraint exercised entirely through motives of far-sighted self-interest. Thus I could instance a railroad, which has practically a monopoly of transportation in a large section of the country, and which formerly seemed to exploit that monopoly with a single eye to the stockholder's dividends. The more modern men who have come into its management now take the view that, while they mean to continue paying dividends to stockholders, the welfare of such a road depends upon the welfare of the country which it serves, and that it is therefore, for the interest of the road to make such rates as will develop the business and traffic of that country.

The policy introduced into many gas companies in recent times, though perhaps stimulated by the competition of the electric light companies, is another instance of the tendency of the modern business man to make his gains out of small profits on a large volume of business, rather than out of large profits on a small volume. Some inquiries which I have made into the operation of the sugar trust have convinced me that here too, while the trust certainly has an advantage in bargaining power on account of its large transactions, it is not able either to depress the price of the raw material or to raise the price of the finished product as much as has been often assumed. An instance just mentioned to me by Mr. Marburg is also in point. He tells me that the formation of the tobacco trust has been the means of

greatly stimulating cotton raising in the vicinity of Durham. The general fact which applies to most of these cases is that modern methods of production involve the use of a large fixed capital, and that to utilize this involves a very wide market, while to gain this market it is necessary that the prices should be moderate. Monopoly, therefore, under modern business conditions and under modern far-sighted business management, means a very different thing from what it meant when the Dutch East India Company destroyed half of the spice crop in order to raise the price of the other half, and it seems to me that Professor Adams' plea for the higher commercial education might be based, not only upon the ground that it would encourage competition, but also upon the ground that it would encourage far-sighted, as distinguished from short-sighted business management in our large corporation.

The greatest evils are, therefore, perhaps ethical, and legal, rather than strictly economic, and in dealing with this phase of the matter I venture to say that the forgotten man is the corporation lawyer. It is he who devises the various forms of organization under which great corporations, while conforming to the letter of the law, succeed practically in doing what they please. Now, the corporation lawyer always has and always will have a great advantage over the average legislator, partly because he is a much abler, more highly trained and more highly paid man, and partly because it is easier to work a hole through the meshes of the law than to make a general law so tight that no hole can be found in it. It is, therefore, very important that our laws should be such as not to tempt the respectable and honorable lawyers and corporation managers to try to evade them. This means that they should be simple not fussy, that they

should aim at the real root of the evil not at its symptoms, and that they should keep in mind the social point of view which was so ably presented by President Seligman in his opening address. By that I mean that they should try to encourage a type of socially useful rather than socially harmful corporation managers. As far as these managers are broad-minded, striving to effect economies, and adopt new methods in production ; they may, I think be fairly said to be socially useful, whatever we may think of the size of the compensation which they get for themselves. But it cannot be socially useful to be tricky, vindictive, unscrupulous, dishonest or corrupt. This is not the place, nor am I prepared, to outline in detail a law for the regulation of trusts. I may, however, venture the suggestion (made with that diffidence which Professor Goodnow said was characteristic of the lawyer in speaking on a subject which had not yet been passed upon by the Supreme Court), that in order to secure the necessary uniformity, I believe that we should resort to federal legislation rather than rely upon state legislation. I also believe that our experience with regard to the regulation of banks under the national banking system points out the line of most profitable progress. We are now going through a period of wild-cat corporation finance, corresponding to the period of wild-cat banking which preceded the Civil War, and while I do not shut my eyes to the great constitutional questions involved in federal legislation, I hope we may find the means of solving them, as we have solved similar questions in the past.